

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DOROTHY FRIZZELL,

Plaintiff,

v.

WAL-MART STORES, INC., a foreign
Corp., individually and d/b/a WAL-
MART STORE #2692,

WAL-MART STORES EAST, LIMITED
PARTNERSHIP, a foreign Limited
partnership, individually and d/b/a
WAL-MART STORE #2692

SAM'S EAST, INC., a Foreign Profit
Corporation,

Defendants.

USDC Case No. _____
Hon: _____

Case No.2018-004904-no
Hon. Michael E. Servitto

Brian L. Fantich (P60935)
Carra J. Stoller (P64540)
Adam J. Gantz (P58558)
LAW OFFICE OF KELMAN & FANTICH
Attorney for Plaintiff
30903 Northwestern Hwy., Ste. 270
Farmington Hills, MI 48334
(248) 855-0100
Kelmanandassociates@yahoo.com

Richard G. Szymczak (P29230)
Attorney for Defendants
PLUNKETT COONEY
38505 Woodward Ave., Ste. 100
Bloomfield Hills, MI 48304
(810) 342-7007
rszymczak@plunkettcooney.com

**NOTICE OF FILING REMOVAL
NOTICE OF REMOVAL TO FEDERAL COURT
VERIFICATION
CERTIFICATE OF SERVICE**

Richard G. Szymczak (P29230)
Attorney for Defendants
PLUNKETT COONEY
38505 Woodward Ave., Ste. 100
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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

DOROTHY FRIZZELL,

Plaintiff,

v.

WAL-MART STORES, INC., a foreign Corp., individually and d/b/a WAL-MART STORE #2692,

WAL-MART STORES EAST, LIMITED PARTNERSHIP, a foreign Limited partnership, individually and d/b/a WAL-MART STORE #2692

SAM'S EAST, INC., a Foreign Profit Corporation,

Defendants.

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NOTICE OF FILING REMOVAL

To: Brian L. Fantich (P60935)
Carra J. Stoller (P64540)
Adam J. Gantz (P58558)
30903 Northwestern Hwy.
Ste. 270
Farmington Hills, MI 48334

Macomb County Circuit Court
Clerk of the Court
40 No. Main St.
Mt. Clemens, MI 48043

PLEASE TAKE NOTICE that these Defendants have this day filed a Notice of Removal, a copy of which is attached hereto, in the office of the Clerk of the United States District Court, Eastern District of Michigan, Southern Division.

Respectfully submitted,
PLUNKETT COONEY

By: /s/**Richard G. Szymczak**
Richard G. Szymczak (P29230)
Attorney for Defendants
38505 Woodward Avenue, Suite 100
Bloomfield Hills, Michigan 48304
Phone | 248-594-5798
Facsimile | 248-901-4040
rszymczak@plunkettcooney.com

Dated: January 22, 2019

PROOF OF SERVICE

The undersigned certifies that on the 22nd day of January, 2019, a copy of the foregoing document was served upon the attorney(s) of record in this matter at their stated business address as disclosed by the records herein via:



Hand Delivery
U.S. Mail
E-Mail



Overnight Mail
Facsimile
Electronic E-File

I declare under the penalty of perjury that the foregoing statement is true to the best of my information, knowledge and belief.

/s/Denise Berry

Denise Berry

UNITED STATES DISTRICT COURT
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NOTICE OF REMOVAL TO FEDERAL COURT

Defendants, by and through their attorneys of record, PLUNKETT COONEY and Richard G. Szymczak, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, file this Notice of Removal based upon the following reasons:

1. On or about December 19, 2018, Plaintiff filed a civil action in the Macomb County Circuit Court, State of Michigan, bearing Docket No. 2018-004904-NO, in which Dorothy Frizzell is the Plaintiff and Wal-Mart Stores, Inc., a foreign Corp., individually and d/b/a Wal-Mart Store #2692, Wal-Mart Stores East, Limited Partnership, a foreign Limited partnership, individually and d/b/a Wal-Mart Store #2692 and Sam's East, Inc., a Foreign Profit Corporation, are the Defendants. A copy of the Complaint filed in the Macomb County Circuit Court is attached to this Notice of Removal as **Exhibit A**.

2. This action, as alleged in the Complaint, is a suit brought by Plaintiff against Defendants for negligence and premises liability.

3. This action is between citizens of different states. The Plaintiff is a resident of the County of Macomb, State of Michigan. (See Paragraph 1 of **Exhibit A**). Defendant Wal-Mart Stores, Inc. is a corporation duly created and organized

by and under the laws of the State of Delaware, with its principal place of business in Bentonville, Arkansas. Defendant Sam's Club East, Inc. is a corporation headquartered in Arkansas. Defendants are not a corporation created or organized under the laws of the State of Michigan and do not have their principal place of business in the State of Michigan. Wal-Mart Stores East, LP, is a Delaware limited partnership

4. The action filed by Plaintiff against Defendants is one involving complete diversity of citizenship under 28 U.S.C. § 1332 as a civil action between citizens of the State of Michigan and the States of Delaware and Arkansas.

5. Defendants assert that it is more likely than not that the amount in controversy exceeds the jurisdictional requirements of 28 U.S.C. § 1332(a) if Plaintiff prevails on her claims, based upon the relief specifically sought in Plaintiff's Complaint, wherein the total damages would be in excess of \$25,000.00. This assertion is based upon Plaintiff's Complaint, which sets forth allegations that she sustained injuries to her right hip, resulting in nerve damage; injuries to head and neck; cognitive deficits, neurological deficits, headaches; injuries to right shoulder; injuries to her back and spine resulting in nerve damage; severe injuries to her upper and lower extremities; diminished

extension, flexion, and range of motion; decrease in gross and fine motor skills; severe shock, as well as physical pain and suffering.

6. This Notice of Removal is timely filed within thirty (30) days after the Complaint was filed and served upon Defendants, as the Complaint was served by certified mail on December 26, 2018.

7. A written notice of this Removal has been filed with the Clerk of the Court for the Macomb County Circuit Court, State of Michigan, as provided by law.

8. Plaintiff has asserted in her Complaint that she be awarded damages in excess of \$25,000.

8. Based upon the foregoing, Defendants are entitled to removal of this action to the United States District Court for the Eastern District of Michigan, under 28 U.S.C. § 1441, *et seq.*

WHEREFORE, Defendants respectfully request that they be allowed to effect removal of the within action from the 16th Circuit Court for the County of Macomb, State of Michigan, to the United States District Court for the Eastern District of Michigan.

Respectfully submitted,

PLUNKETT COONEY

By: /s/Richard G. Szymczak

Richard G. Szymczak (P29230)
Attorney for Defendants
38505 Woodward Avenue, Suite 100
Bloomfield Hills, Michigan 48304
Phone | 248-594-5798
Facsimile | 248-901-4040
rszymczak@plunkettcooney.com

Dated: January 22, 2019

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VERIFICATION

RICHARD G. SZYMCZAK, first being duly sworn, states that he is the attorney for Defendants and that the foregoing Notice of Removal is true in substance and in fact to the best of his knowledge, information and belief.

Respectfully submitted,

PLUNKETT COONEY

By: /s/Richard G. Szymczak

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CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2019, I electronically filed ***Defendants' Notice of Filing Removal, Notice of Removal to Federal Court, Verification, and Certificate of Service*** with the Clerk of the Court using the ECF system, or in the alternative, I have mailed by United States Postal Service to any parties that are not ECF participants.

Respectfully submitted,
PLUNKETT COONEY

By: /s/Richard G. Szymczak
Richard G. Szymczak (P29230)
Attorney for Defendants
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